

NICOLETTI HORNIG & SWEENEY
Guerric S.D.L. Russell
Attorneys for Plaintiff
Matthew Carson
505 Main Street, Suite 106
Hackensack, New Jersey 07601
Tel: (201) 343-0970

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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| In the Matter of the Complaint | : | 15 Civ. 7388-NLH-KMW |
| | : | |
| of | : | DECLARATION OF |
| | : | <u>GUERRIC S.D.L. RUSSELL, ESQ.</u> |
| MATTHEW CARSON, as Owner of the vessel | : | |
| TAMMY LYNN, a 2005 28' Mako Model | : | |
| 284CC (HIN: MRKTM064C505) for Exoneration | : | |
| from or Limitation of Liability | : | |

I, Guerric S.D.L. Russell, declare under penalty of perjury that:

1. I am an attorney admitted to practice in the Courts of the State of New Jersey and in this court and I am a partner in the law firm Nicoletti Hornig & Sweeney, attorneys for the Plaintiff MATTHEW CARSON, and as such, I am familiar with the matters set forth herein.

2. I make this declaration in support of the Plaintiff's Motion Pursuant to Supplemental Rule F to Approve *Ad Interim* Stipulation for Value, Direct Issuance of Notice and Enjoin Actions.

3. Plaintiff filed a complaint seeking exoneration from or limitation of liability for all damages that occurred on July 11, 2015 when the subject vessel unexpectedly encountered wake(s) and/or wave(s) which allegedly caused Joseph Sandefur to fall off of his seat and sustain injuries while operating in the area of the Cape May Inlet, New Jersey. The verified complaint is entered on the docket as Doc. 1 and is incorporated herein by reference.

4. Supplemental Rule F(1) of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure states that the vessel owner “shall deposit with the court, for the benefit of claimants, a sum equal to the amount or value of the owner’s interest in the vessel and pending freight, or approved security therefore, ...”

5. Petitioner contends that the fair market value of the vessel TAMMY LYNN on July 11, 2015 was \$40,000.00 (see, Complaint at ¶ Eleventh, Doc. 1).

6. In accordance with well-recognized and standard practice in the field of admiralty and maritime law, Plaintiff, together with the filing of the complaint, posted an *Ad Interim* Stipulation for Value for the benefit of claimants in the total amount of \$40,250, representing the amount or value of the Plaintiff’s interest in the vessel TAMMY LYNN (\$40,000) plus \$250 for costs pursuant to LAMR (f).

7. Supplemental Rule F(3) states, in part, that,

On application of the plaintiff the court shall enjoin the further prosecution of any action or proceeding against the plaintiff or the plaintiff’s property with respect to any claim subject to limitation in the action.

8. Supplemental Rule F(4) states, in part, that,

[T]he court shall issue a notice to all persons asserting claims with respect to which the complaint seeks limitation, admonishing them to file their respective claims with the clerk of the court and to serve on the attorneys for the plaintiff a copy thereof on or before a date to be named in the notice. ...The notice shall be published in such newspaper or newspapers as the court may direct once a week for four successive weeks prior to the date fixed for the filing of claims.

WHEREFORE, Plaintiff respectfully requests the Court to issue an order in the form set forth in Doc. 1-4: (i) approving the *Ad Interim* Stipulation for Value filed with the complaint, (ii) directing issuance of notice to claimants in the form set forth in Doc. 1-3; and (iii) enjoining actions.

Dated: Hackensack, New Jersey
February 18, 2016

NICOLETTI HORNIG & SWEENEY
Attorneys for Petitioner
MATTHEW CARSON

By: /s/ Gueric S.D.L. Russell
Gueric S.D.L. Russell
505 Main Street, Suite 106
Hackensack, New Jersey 07601
Tel: 201-343-0970
Fax: 201-343-5882
E-mail: grussell@nicolettihornig.com
(FILE No.:00001202 GSR)